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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,791	06/14/2006	Laurent Pain	292393US2PCT	5941
22850 7590 09/11/2009 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
TRAN, BINH X				
ART UNIT		PAPER NUMBER		
1792				
NOTIFICATION DATE		DELIVERY MODE		
09/11/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/582,791

Applicant(s)

PAIN, LAURENT

Examiner

Binh X. Tran

Art Unit

1792

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 62-78 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 62-65, 67-71 and 73-77 is/are allowed.
- 6) ☒ Claim(s) 66, 72 and 78 is/are rejected.
- 7) ☒ Claim(s) 72, 78 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Interpretation

1. Claims 66, 72, 78 drawn to an apparatus (i.e. a lithography device). According to the MPEP 2114, "Manner of operating the device does not differentiate apparatus claim from the prior art. A claim containing a 'recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus' if the prior art apparatus teaches all the structural limitations of the claim. Thus, the examiner does not give any patentable weight on the manner of operating the claimed apparatus. Specifically, the examiner does not give any patentable weight regarding the manner of carrying one more lithography of the method in claims 62, 67, or claim 73.

Double Patenting

2. Applicant is advised that should claim 66 be found allowable, claims 72, 78 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). As discussed above, the examiner does not give any patentable weight on the manner in which a claimed apparatus is intended to be employed. It is noted claim 66, 72, 78 recite identical structure limitation for the apparatus claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 66, 72, 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mangat et al. (US 2003/0039923) in view of Steward et al. (US 2004/0151991 A1).

Respect to claims 66, 72, and 78, Mangat discloses a first means (laser 110) for producing at least one of lithography beam (Fig 8). However, Mangat fail to disclose a second means and a third means. In an photolithography apparatus, Stewart teaches a second means (38) for processing data relative to an erroneous design (i.e. defect) formed in a thin layer and data relative to desired corrected design, and for producing correction data following such process; and a third means (36 or 45) for controlling the first means (ion beam), from correction data produced by the second means (38) (Fig 1, Fig 3, paragraph 0045-0049). It would have been obvious to one having ordinary skill in the art, at the time of invention, to modify Mangat in view of Stewart by having a second and third means because it helps to determine the defects and repair the defects

Allowable Subject Matter

5. Claims 62-65, 67-71, 73-77 are allowed.

6. The following is a statement of reasons for the indication of allowable subject matter: Respect to claims 62-65, the cited prior arts fail to disclose or suggest depositing a third thin layer on the first sub-layer and second lithography in the third thin

layer leaving blocks filling the patterns in excess. Respect to claims 67-71, the cited prior arts fail to disclose or suggest removing the second thin layer after the etching of the first sub-layer through the second thin layer. Respect to claims 73-77, the cited prior arts fail to disclose or suggest removing the first sub-layer after step c) of etching the second sub-layer through the first sub-layer.

Response to Amendment

7. The applicant's amendment with respect to claims 62-65, 67-71, 73-77 is sufficient to overcome the rejections. New grounds of rejections were set forth above to discuss applicant's new claims 66, 72, 78.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh X. Tran whose telephone number is (571)272-1469. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nadine Norton can be reached on (571) 272-1465. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Binh X Tran
Primary Examiner
Art Unit 1792

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Primary Examiner, Art Unit 1792